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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	08/208,972 (U.S. Pat.#5,451,233)
Filing Date	03/09/1994
First Named Inventor	Paul G. Yock
Art Unit	N/A
Examiner Name	N/A
Attorney Docket Number	077843.0113

### ENCLOSURES (Check all that apply)

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/ Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below):<br>Disclosure Submission Pursuant to 37 CFR 1.765 (2 pages) with Appendices A-C |
|---|--|---|

Remarks  
Original and two copies submitted.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Baker Botts L.L.P.
Signature	
Printed name	Jason C. Chumney
Date	10/31/2008

Reg. No.	54,781
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### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# FEE TRANSMITTAL for FY 2007

Complete if Known

Application Number	08/208,972 (U.S. Pat.#5,451,233)
Filing Date	03/09/1994
First Named Inventor	Paul G. Yock
Examiner Name	N/A
Art Unit	N/A
Attorney Docket No.	077843.0113

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ ) 0

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number  
Deposit  
Account  
Name

02-4377

Baker Botts L.L.P.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

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## FEE CALCULATION

### Extra Claim Fees

	Extra Claims	Fee	Fee Paid
Total Claims		52	\$0
Independent Claims		220	\$0
Multiple Dependent			\$0

SUBTOTAL \$0

Fee Description	Large Entity	Small Entity
Claims in excess of 20	52	26
Independent claims in excess of 3	220	110
Multiple dependent claim, if not paid	390	195

## FEE CALCULATION (continued)

### ADDITIONAL FEES

<input type="checkbox"/> Surcharge - late oath or filing fee	
<input type="checkbox"/> Non-English Specification	
<input type="checkbox"/> Extension for reply within first month	
<input type="checkbox"/> Extension for reply within second month	
<input type="checkbox"/> Extension for reply within third month	
<input type="checkbox"/> Extension for reply within fourth month	
<input type="checkbox"/> Extension for reply within fifth month	
<input type="checkbox"/> Notice of Appeal	
<input type="checkbox"/> Filing a brief in support of an appeal	
<input type="checkbox"/> Petition to revive - unavoidable	
<input type="checkbox"/> Petition to revive - unintentional	
<input type="checkbox"/> Utility Issue Fee	
<input type="checkbox"/> Design Issue Fee	
<input type="checkbox"/> Publication Fee	
<input type="checkbox"/> Petitions to the Commissioner	
<input type="checkbox"/> Request for Continued Examination (RCE)	
<input type="checkbox"/> Information Disclosure Statement (IDS)	

Other fee - Disclosure Submission Pursuant to 37 CFR Section 1.765 with Appendices A-C

SUBTOTAL (\$ ) 0

## SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Jason G. Chumney	Registration No. (Attorney/Agent)	54,781	Telephone	212-408-2500
Signature		Date	10/31/2008		

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Application No. (if known): 08/208,9723

Attorney Docket No.: 077843.0113

## Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No ED 762055927 US in an envelope addressed to:

Commissioner for Patents  
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Alexandria, VA 22313-1450

on October 31, 2008  
Date

Signature

Jason Chumney

Typed or printed name of person signing Certificate

54,781  
Registration Number, if applicable

212-408-2500  
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. DISCLOSURE STATEMENT PURSUANT TO 37 CFR § 1.765 (2 pages) with Appendices A-C and attachments (with 2 additional copies)
2. Transmittal Form (1 page)
3. Fee Transmittal Form (1 page)
4. Return Receipt Postcard



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: : U.S. Patent No. 5,451,233 (U.S.S.N. 08/208,972)  
Issued: : September 19, 1995 Regulatory Approval Product: XIENCE™ V EECSS  
Inventors : Paul G. Yock  
For : Angioplasty Apparatus Facilitating Rapid Exchanges

**DISCLOSURE SUBMISSION PURSUANT TO 37 CFR § 1.765**

**SUBMITTED VIA EXPRESS MAIL**

Mail Stop: Hatch-Waxman PTE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Further to the Disclosure Submission filed with the United States Patent and Trademark Office ("USPTO") on September 22, 2008, Applicant formally submits herewith information and materials that may be relevant to a determination of entitlement to the extension sought pursuant to 35 U.S.C. § 156 for U.S. Patent No. 5,451,233 ("the '233 Patent"). Although not necessarily material or adverse to any such determination, the following information and materials is provided for consideration pursuant to 37 C.F.R. § 1.765.

Appendix A: Order issued on October 21, 2008 in connection with Medtronic, Inc.'s Motion to Modify Injunction in *Advanced Cardiovascular Systems, Inc. v. Medtronic, Inc.* (C.A. No. 95-03577);

Appendix B: Supplement to the Citizen Petition submitted on August 22, 2008 in connection with FDA Docket No. FDA-2008-P-0473, as filed on behalf of AngioScore, Inc.

and dated October 24, 2008 (without Exhibit A thereof, which is included herewith as Appendix A); and

Appendix C: Comments of Abbott Cardiovascular Systems to the Citizen Petition in connection with FDA Docket No. FDA-2008-P-0473, dated October 28, 2008 (without Exhibit C thereof, which is included herewith as Appendix A).

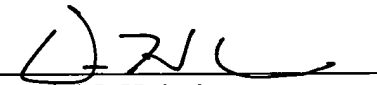
Additionally, it is noted that submissions made in connection with FDA Docket No. FDA-2008-P-0473 are available at <http://www.regulations.gov/search/index.jsp>.

Applicant believes the '233 Patent is eligible for an extension pursuant to 35 U.S.C. §156 based upon FDA approval of the XIENCE™ V EECSS. Applicant respectfully submits that the materials submitted herewith do not adversely impact the eligibility of the '233 Patent for such an extension. The USPTO and/or FDA are invited to contact the undersigned with any questions or requests for additional information regarding this matter.

Applicant authorizes the Commissioner to charge any fees and/or credit any overpayments associated with this submission to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 077843.0113.

Date: October 31, 2008

Respectfully submitted,

  
Daniel J. Hulseberg  
Patent Office Reg. No. 36,554  
Attorneys for Applicant  
Customer No. 62,614  
BAKER BOTTS L.L.P.  
30 Rockefeller Plaza  
New York, NY 10112-4498  
(212) 408-2500



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Inventors : Paul G. Yock  
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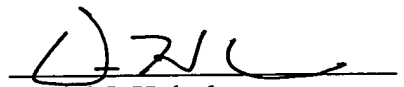
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New York, NY 10112-4498  
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Inventors : Paul G. Yock

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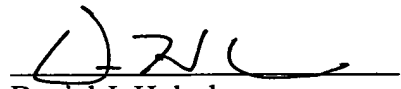
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